# Federal judges seek Napster specifics from recording industry

## THE ASSOCIATED PRESS

SAN FRANCISCO - Three federal appeals judges put the burden on the recording industry Monday. They grilled its attorneys with questions about why a lower court's injunction against Napster Inc. should be reinstated and the song-sharing service shut down

The panel of the 9th U.S. **Circuit Court of Appeals pep**pered recording industry lawyers with queries. It tried to find out how exactly Napster's service should or could be monitored to weed out the trafficking of copyrighted music among what Napster claims are 32 million users.

Judge Robert Beezer told

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ton EA 70 program aluminum. Answer Manitou Mach 5 SX.

Industry Association of America, that asking Napster to keep tabs on music traded by its users might be too much to handle. "How are they supposed to

Russell Frackman, a lawyer rep-

resenting the Recording

have knowledge of what comes off of some kid's computer in Hackensack, N.J., to a user in Guam?" Beezer asked.

Frackman said the answer lies in Napster's ability to take a list of copyrighted song titles and redesign its service not to transmit those files.

The hearing was part of the continuing legal battle between Napster and the RIAA.

The RIAA alleges Napster contributes to copyright

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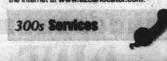
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## infringement by allowing millions of users to search for music with its MusicShare directory and then download directly from each others' computers. The recording industry considers this case pivotal in its battle against online piracy.

Attorneys for each side had 20 minutes to make their case Monday. The judges adjourned without reaching a decision, which could come at any time.

The appeals panel suggested through its questions that U.S. **District Court Judge Marilyn** Hall Patel's injunction shutting down Napster prohibited legal uses of the music-sharing software, such as the trading of noncopyrighted music.

**Reinstating Patel's injunc-**

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"How are they supposed to have knowledge of what comes off of some kid's computer in Hackensack, N.J., to a user in Guam?"

tion would cripple Napster's

service, said David Boies, who

successfully prosecuted the gov-

ernment's antitrust case against

Napster in July said the small,

Redwood City-based company

was encouraging "wholesale

infringing" against music indus-

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## **Robert Beezer** judge

down, the appeals court stayed the injunction, keeping the company's service alive.

Napster also claimed the promotion of artists who permit their songs to be shared would be hurt by reinstating the injunction.

It added that the 1984 Supreme Court decision allowing Sony to continue manufacturing VCRs that can duplicate copyrighted materials also cov-

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ers Napster's service.

But Frackman argued that Napster was specifically created to aid users engaging in copyright infringement. Frackman said the music industry is not "trying to stop the Internet," but it wants to stop Napster from allowing its users to swap pirated music.

Napster was started in a Northeastern University residence hall room last year. It pioneered the concept known as peer-to-peer computing, in which people share files from their own computers instead of a central server.

In Napster's case, users can download music from each other that is stored in the MP3 format.

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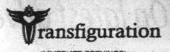
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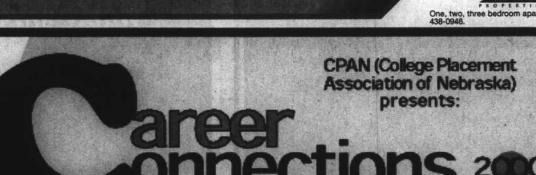
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