

What You Must Know if You Produce MP3 Files

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Please share it with everyone! Our Freedom depends on it!**

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Have you seen these headlines?

- * 1.4 Million Internet Marketers Risk Massive Fines
- * Publishers at Risk of Getting Sued Over Unpaid MP3 Royalties
- * MP3 Patent Owners Clamp Down on Info Publishers
- * Info Publishers Must Pay MP3 Royalties or Risk Stiff Fines

There's a lot of stink lately about unlicensed MP3 files. Why? Because certain parts of the MP3 process are patented and the commercial distribution of MP3 files requires a yearly licensing fee, plus royalties.

In case you're wondering, the Thomson company is the sole licensing agent for - what the last I heard was - 18 patents on MP3. It's their job to contact people and organizations that distribute commercial content via MP3, and try to collect the royalties from them.

While usually under the radar, a recent press release, which just happens to be tied into a product release, has come to the surface and provides some disturbing language for info publishers that rely on MP3.

The full press release is here:

<http://www.prweb.com/releases/2005/6/prwebxml253053.php>

It's no longer just music distribution that they're targeting. The press release states, "The products in question are such things as interviews of business experts, tutorials, talking ebooks, teleseminar recordings, live streaming audio messages, audio postcards - and lots more besides."

In somewhat strong language, a certain Mr. Joe Clayton Jr. warned, "The Internet marketing community is about to be shaken to its roots, because thousands of existing audio products are not licensed. And if you don't have a license you are in violation - period!"

Then later in the press release comes the pitch.... "Fortunately there is now inexpensive software that is licensed, which will quickly convert and re-package those 'offending' files into a suitable licence-free format" he added. "But the Internet community must act very quickly to help reduce their chances of being hit."

Ok, stop worrying and don't freak out about this. You don't need to go buy their product, I have one that you can download for free. I'll also tell you exactly what you need to do and who they are targeting.

According to the Thomson MP3 Licensing site:

<http://www.mp3licensing.com/royalty/emd.html>

Here's what you need to pay if you're selling MP3 related content... and no, it doesn't matter HOW you distribute it... "The royalty rate for using MP3 to deliver content for commercial purposes is two thousand dollars per year plus 2% of related revenue."

So in other words, let's say your company sells MP3 files on CD and it made \$200,000 from those CD sales this year. You need to pay the Thomson dudes the base \$2,000 plus an additional \$4,000 on sales for grand total of \$6,000. Spooky huh?

But wait... there's more. If you are a small business or using MP3 for you own use or non-profit, it appears that you're off the hook. Here's another direct quote from the Thomson MP3 licensing website:

"Note: **No license is needed** for private, non-commercial activities (e.g., home-entertainment, receiving broadcasts and creating a personal music library), not generating revenue or other consideration of any kind or **for entities with an annual gross revenue less than US\$ 100,000.00.**"

So in other words, the way I read that statement is... if your sales of MP3 related products generate less than 100K per year, you can relax. Just have your annual report ready, in case the lawyers come 'a knockin so you can prove your annual revenues.

But if you do earn over 100K per year from MP3 related sales, then it looks like you are supposed to have a license and pay royalties... if you used one of the patented methods of compressing your MP3s.

(Yes, you could hire a lawyer to argue that your files were compressed with open source or third party software and thereby circumventing the patent. They could also argue that you're giving the MP3 files away as a free bonus, so no revenues were generated.) But why even "go" there?

Why the heck are we still even using MP3 files? It's like driving a horse and buggy when we've got a brand new sports car sitting in the garage. I'm taking about the new world standard audio format called AAC, which is short for Advanced Audio Coding Codec.

AAC was developed by the JPEG Group which includes several large fortune 500 types, including Dolby, Fraunhofer, AT&T, Sony, Nokia and Apple. It has been around "officially" for over a year and is readily available in Apple's Quicktime 6 (or higher) software.

<http://www.apple.com/quicktime/>

According to the Apple website, "Because of its exceptional performance and quality, Advanced Audio Coding (AAC) is at the core of the MPEG-4, 3GPP, and 3GPP2 specifications and is the new audio codec of choice for Internet, wireless, and digital broadcast arenas. AAC provides audio encoding that compresses much more efficiently than older formats such as MP3, yet delivers quality rivaling that of uncompressed CD audio."

The Apple site also suggests that its time for MP3 to pack it in. "Internet audio has become wildly popular in recent years, specifically in the MP3 format. But what most listeners don't realize is that MP3's compression technology is more than a decade old. In those ten years, many advances in perceptual audio coding and compression have been achieved. AAC takes full advantage of these advances, resulting in higher quality output at lower data rates, allowing even modem users to hear a difference."

<http://www.apple.com/mpeg4/aac/>

So lets look at the advantages of AAC over MP3:

- Improved coding provides higher-quality audio
- Improved compression provides smaller file sizes
- Support for multichannel audio, up to 48
- Higher resolution audio, with sampling rates up to 96 kHz
- Improved decoding efficiency, requiring less CPU power

In a test conducted by the Dolby labs, "AAC compressed audio at 128 kbps (stereo) has been judged by expert listeners to be indistinguishable from the original uncompressed audio source. AAC was the only Internet audio codec evaluated in the range 'Excellent' at 64 kbps for all of the audio items tested."

Ok, I can hear you saying, "So what's the catch? We agree that AAC is 10 years better than MP3 but is it free to use and distribute?" The answer is a resounding YES!

Here's a direct quote from the Dolby Via AAC Licensing site:

http://www.vialicensing.com/products/mpeg4audio/MPEG-4_Audio_FAQ.html

"Are there use fees for MPEG-4 Audio? No. License fees are due on the sale of encoders and/or decoders only. There are no patent license fees due on the distribution of bit-stream encoded in an MPEG-4 Audio format, whether such bit-streams are broadcast, streamed over a network, or provided on physical media."

"Who must sign a license? An MPEG-4 Audio patent license is needed by manufacturers or developers of end user encoder and/or decoder products."

So in other words, bye bye MP3... AAC is royalty free to use and distribute. Only the people who make AAC software or hardware have to pay a license fee.

Ok, now you're convinced, but there's still a missing piece of the puzzle. **How to convert all your MP3 inventory into AAC?**

Lean a little closer and I'll whisper it in your ear... Apple iTunes for PC and Mac. It's a free download and converting MP3 to AAC couldn't be easier.

Just go to Apple.com and download iTunes to your PC. Once installed, drag the MP3 file you want to convert into the iTunes window. Then right click on the file and select, "Convert Selection to AAC." A few minutes later. Ding! Your new file is ready :-)

Of course it depends on the file size and the speed of your computer. Your conversion times will vary. Also be sure to check the Preferences under the File menu, as there's no need to convert the file at a higher bit rate than the original.

(All the bit rate and sample rate info of the original can be found by right clicking on the MP3 file and choosing "Get Info" from the drop down menu.) To select a custom AAC conversion rate, go to Preferences under the File menu and select the "Importing" tab and set the AAC Importing Rate to whatever you like.

The result? A smaller file that's indistinguishable from the original. One that's royalty free to distribute and didn't cost you a dime to convert. Now your customers can listen to their new AAC audio file in iTunes, or their iPods, or any other software or device that offers the new world standard AAC playback.

My conclusion on this whole mess? It all boils down to greed. People feeding on the fears of others that lawyers are going to start suing people over unlicensed MP3 files. But to quote Newton's Third Law of Motion, "For every action, there is an equal and opposite reaction."

So guess what kids... guess what happens when people try enforce patents on software? Usually there's a mass exodus from the product and it's left to rot in the past.

Some of you may remember what happened many years ago when there were rumors that CompuServe was going enforce it's patent on GIF format graphics. It was around New Year's Day in 1995 when Unisys and CompuServe told the world that programs using GIF would require royalties, because of Unisys' patent on the LZW compression routine used in GIF.

Literally overnight, everyone stopped using it and switched everything to JPEG graphics. New formats of GIF - that did not violate the patent - sprung up like crazy as did entirely new graphic formats like the favorite PNG (portable network graphics).

In my opinion, software makers should just be happy with their existing copyright protection, industrial design protection, and trademark names. Once they start enforcing patents and trying to collect royalties because of greed, the whole internet will either grind to a halt (not likely) or just drop them like a red hot potato.

So here's our chance. We have some people out there trying to enforce MP3 patents and collect royalties for an ancient and decaying standard. We also have some people trying to sell us software that we don't need.

Why are we still clinging to a decade old audio format when the new one is faster acting, better sounding, makes smaller file sizes, and is free of royalties? Why?

Now's our chance to adopt a new standard in AAC. It is endorsed by the MPEG group, Dolby Digital, AT&T, Sony, Nokia and Apple. We also have free AAC audio players for the PC and Mac in Apple iTunes. (The latest version 4.9 even has Podcasting built in, which allows you to have access to thousands of radio shows and sync them with your iTunes and iPod.)

But not only that, the iTunes software lets you convert your MP3 files into AAC files (and several others). The iTunes software is free. The resulting AAC files are royalty free and may be distributed however you want, including streaming over the internet or delivered on physical media.

So scene is set and the clock has stuck. It's time for a change and threatening the internet marketing community with lawsuits is just the catalyst we need.

Together we can oust the archaic MP3 tyrants and replace it with the freedom of AAC.

And the best part is, you don't need to buy anything, or worry about getting sued. Just go to Apple.com and download iTunes to your PC.

<http://www.apple.com/itunes/download/>

Simply start converting your entire product line over to AAC. Then you'll have peace of mind and be comfortable in knowing that you're doing your part to make the internet a better place for everyone.

That's it for now my friend. Thank you for reading. I wish you all the best for online success... and may your God Bless.

by **Michael Campbell**

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