

Mass. student on trial admits sharing tunes online

July 30 2009, By DENISE LAVOIE , AP Legal Affairs Writer

(AP) -- A Boston University graduate student accused of illegally swapping music online nonchalantly admitted in court Thursday that he has downloaded and shared hundreds of songs by Nirvana, Green Day, The Smashing Pumpkins and other artists.

Joel Tenenbaum, 25, of Providence, R.I., was called to the stand by recording industry lawyers who accuse him of copyright infringement.

The case in U.S. District Court in Boston is only the nation's second music-downloading case against an individual to go to trial. Last month, a federal jury in Minneapolis ruled a Minnesota woman must pay nearly \$2 million for copyright infringement.

The music industry has typically offered to settle such cases for about \$5,000, though it has said that it stopped filing such lawsuits last August and is instead working with Internet service providers to fight the worst offenders. Cases already filed, however, are proceeding to trial.

Tenenbaum acknowledged that he had downloaded more than 800 songs since 1999 and admitted that he lied in pretrial depositions when he said that his two sisters, friends and others may have been responsible for downloading the songs to his computer.

Under questioning from his own lawyer, Harvard Law School professor Charles Nesson, Tenenbaum said he now takes responsibility for the illegal swapping.

"I used the computer. I uploaded, I downloaded music ... I did it," he said.

Tenenbaum portrayed himself as a passionate music lover from the age of 9, when he saw Michael Jackson perform during halftime at the 1993 Super Bowl.

"I told my parents I wanted to be a singer like Michael Jackson," he said.

Tenenbaum said that as a teenager, he saved the money he made at his part-time job at McDonald's and bought up to \$110 worth of compact discs at a time. He said he began downloading music using Napster, then used the Kazaa file-sharing network.

"It was like this giant library in front of you of all of sorts of songs," he said.

He said that when he first received a letter from recording labels in 2004 accusing him of copyright infringement, he and his mother responded by sending a money order and a letter offering to delete his music-sharing files. But he said he couldn't go through with it because of his attachment to his large music collection.

"There I was, in front of my computer, and I couldn't do it," he said.

Tenenbaum said he bought approximately 100 compact discs during the time he was downloading music.

His testimony contrasted with the tactic used by Jammie Thomas-Rasset, 32, the Minnesota woman forced to pay \$1.92 million. Even after the jury's verdict, she declared, "There's no way they're ever going to get that."

In opening arguments Tuesday, Nesson said Tenenbaum "was a kid who did what kids do" and should not be harshly penalized for technological advances that he said recording companies have been slow to embrace.

But Tim Reynolds, one of the lawyers representing the recording industry, said then that song-swappers like Tenenbaum take a significant toll on the recording industry's revenues and on backup singers, sound engineers and other people who make a living in music.

The case centers on 30 shared songs, though the recording companies say he distributed more than 800 songs.

Under federal law, the recording companies are entitled to \$750 to \$30,000 per infringement but the law allows the jury to raise that to as much as \$150,000 per track if it finds the infringements were willful.

In the Minnesota case, the jury ruled Thomas-Rasset willfully violated the copyrights on 24 songs and awarded damages of \$80,000 per song.

The four recording labels involved in the Tenenbaum case are subsidiaries of Universal Music Group, Warner Music Group Corp. and Sony Corp.

During a break in his testimony Thursday, Tenenbaum said he is hoping the jury "sends a message" to the recording industry by awarding the music companies minimal damages.

"I think I already got what I wanted - to be heard in court, to hear both sides," he said during a brief interview.

"But obviously, how the trial goes affects me. I would prefer not to declare bankruptcy."

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