

# Creative Expression- Benefiting From Your Copyright and Using the Copyright Works of Others in Your Business;

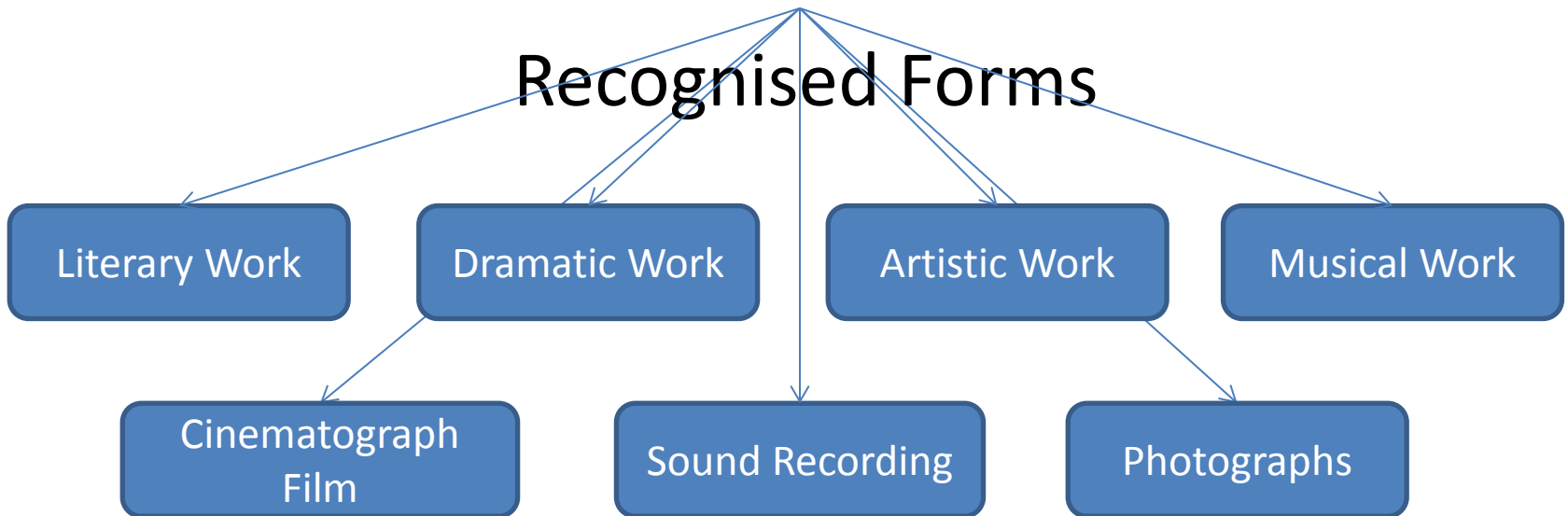
By

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# Creative Expression: COPYRIGHTS

- Ideas Expressed in Tangible form
- Protects Expression and not the Idea



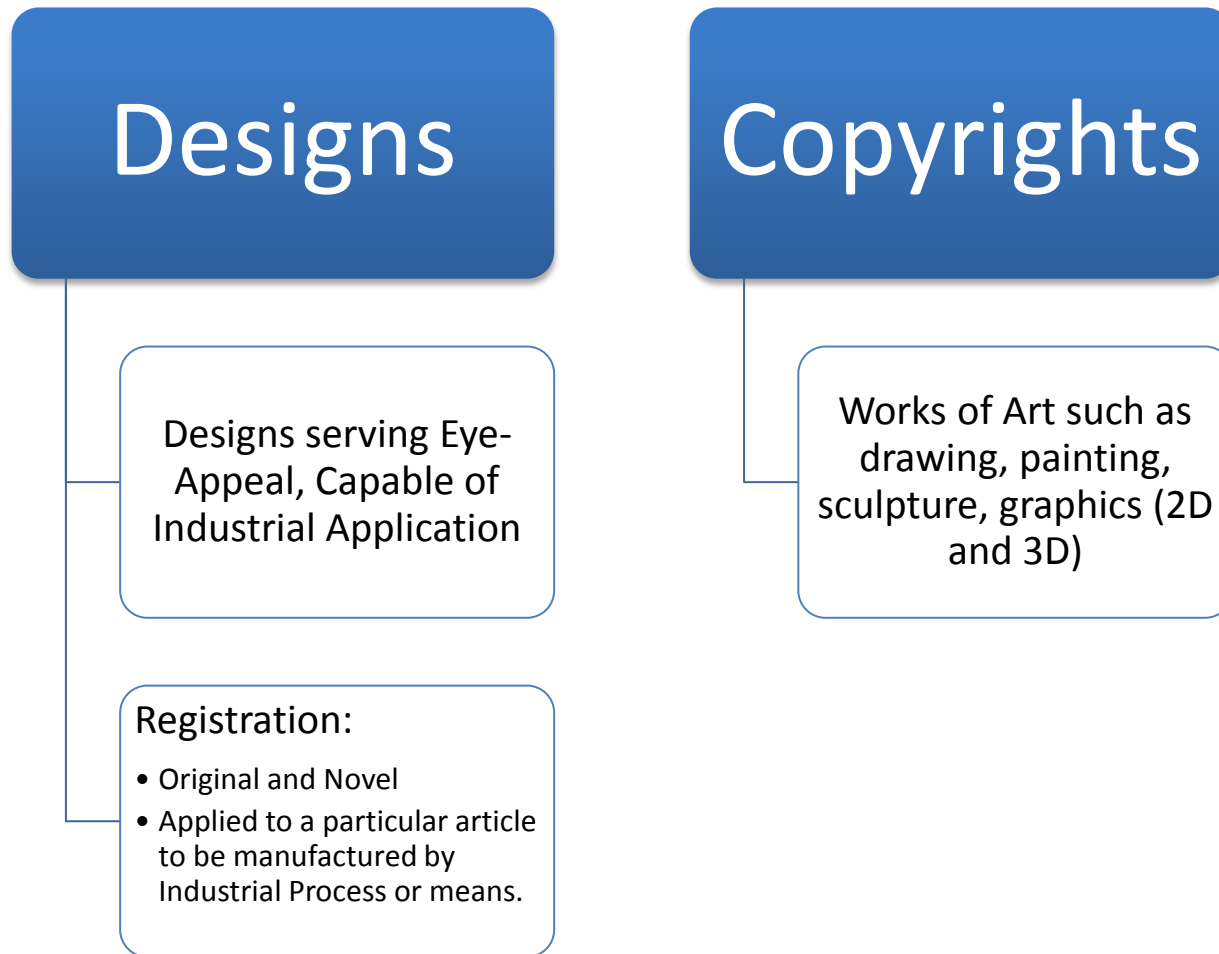
# Copyrights:

- Idea/Expression Dichotomy
- Tangible Form
- Originality and Modicum of creativity
- Term - Life plus 60 years
- Rights: Reproduction, Adaptation, Distribution, Derivative work, Public performance, Public Display

# Creative Expression: Designs

- Any aesthetic design that-
  - Is new
  - Is original
  - Is not functional
  - Is Capable of industrial application utility articles
- Term: 5 years and renewable twice
- Originally subject of Copyrights
- Rights- To make, copy, sell, offer for sale, import

# Design and Copyright Interface



# Design and Copyright Interface

- Works of Art capable of design protection are not eligible for copyright protection.
- Copyright in an unregistered design is lost when more than 50 copies of an article with the design is industrially produced. (Sec. 15, Indian Copyright Act, 1958)

- ‘Just because an article has utilitarian use, that use does not preclude copyright protection’- US Supreme Court in *Mazer v. Stein*

Clarification issued for Copyright- Design interface post *Mazer* and subsequent cases

- Artistic Components of a utilitarian thing can be subject to copyright protection
- Sec. 17, US Copyright Act- “Pictorial, graphic, and sculptural works” include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, diagrams, models, and technical drawings, including architectural plans.

Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

# USING THIRD PARTY COPYRIGHT IN BUSINESS

- Modes of Acquisition
  - Work for hire (Person commissioning the work becomes first owner)
  - Assignment
  - License
- Any or all of the rights granted under copyright law may be licensed/assigned for exploitation
- Publishing, Broadcast, Sale, Performance, Display, Making derivatives- Modes of exploitation



# Buyers Beware!

- Ensure that works being taken are original
- Ensure clear titles
- Perform due diligence on third party IP risk
- Take warranties and indemnities
- Demand registrations where necessary
- Have regard to business considerations such as shelf life of the work

# When do you need permission to use other's CR

- The use of any works in which someone else owns CR requires the owner's prior consent if the planned use implies the use of all or part of the rights granted to the CR owner.
- Playing protected music for your consumers so also text, images, artworks: even if you want to use only a prt of the song, you still need permission
- Get express written permission

# When do you not need permission

- Not protected content
- Facts and ideas
- Work which has fallen in public domain
- Fair use material

# How to reduce risk of Infringement

- Educate staff
- Obtain written permission
- Mark a photocopiers VCRs CD or DVD burners with a clear indication that the equipment should not be used to infringe CR

# CR Infringement

- Economic Right:

Some one also makes copies of your manual  
Imports an infringing work, selling your works' pirate version

- Moral Right

If your contribution as an (co) author of the work is not recognized: If the copier passes off as an author of your work

# Copyrights and Digital Economy

# FICCI, in partnership with Google released new research that showed the web makes a big impact on small to medium enterprises (SMEs) in India

- The report, 'Internet's Role in the Performance of - India's Small and Medium Enterprises' compiled and presented by Nathan Associates, showed that SMEs, who use the web, fare much better than those that do not.
- **Report snapshot:**
- \* The Internet can be a great equalizer for SMEs, providing them with access to new markets, more customers and visibility so as to unleash their potential. The survey of 951 small and medium enterprises in various industrial and geographical clusters across India shows that SMEs that use the Internet, 69 percent experienced an increase in customers, and 63 percent an increase in geographic reach and 44 percent saw an increase in firm employment.
- \* Controlling for factors such as an SME's investment in plant and machinery, the age, sex and education of personnel, and ownership type, the study found that using the Internet for business operations increased the SME's revenue by 51 percent and profits by 49 percent.
- \* On an average, an SME adopting the Internet is able to grow its customer base by 7 percent and employment growth by 4 percent.

- **The Internet**

- . A middle school science class studying ocean ecosystems must gather material for multimedia projects. The teacher downloads pictures and information on marine life from various commercial and noncommercial sites to store in a folder for students to access. This is fair use.
- 7. An elementary school designs a password-protected Website for families and faculty only. It's OK for teachers to post student work there, even when it uses copyright material without permission.
- 8. A student film buff downloads a new release from a Taiwanese Website to use for a humanities project. As long as the student gives credit to the sites from which he's downloaded material, this is covered under fair use.
- 9. A technology coordinator downloads audio clips from MP3.com to integrate into a curriculum project. This is fair use.



- **Part III: Video**

- 11. A teacher videotapes a rerun of *Frontier House*, the PBS reality show that profiles
  - three modern families living as homesteaders from the 1880s did. In class, students
  - edit themselves "into" the frontier and make fun of the spoiled family from
  - California. This is fair use.
- 12. A student tries to digitize the shower scene from a rented copy of Psycho into a
  - "History of Horror" report. Her computer won't do it. The movie happens to be on an
  - NBC station that week, so the teacher tapes it and then digitizes it on the computer for her. This is fair use.

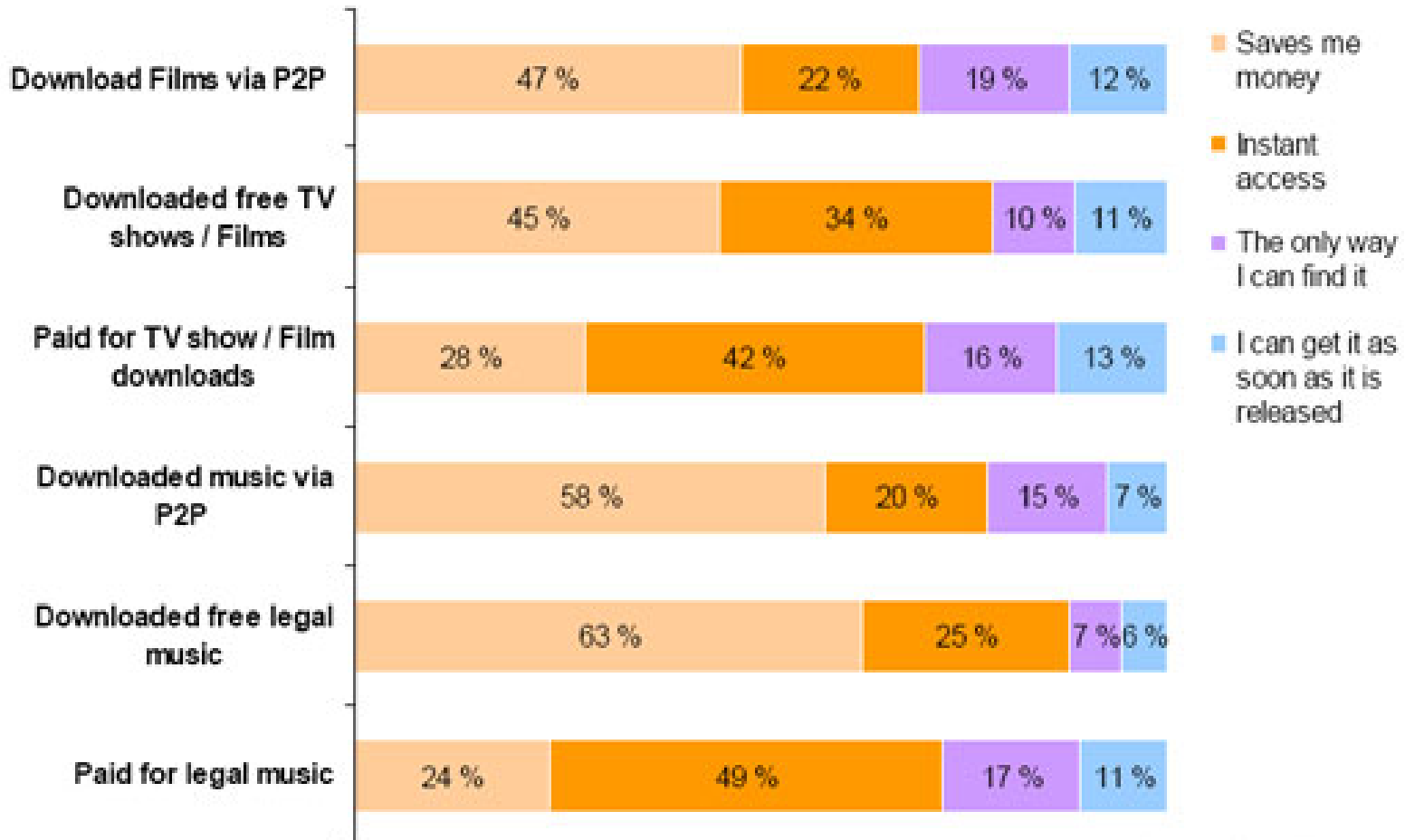
- 13. A history class videotapes a Holocaust survivor who lives in the community. The students digitally compress the interview, and, with the interviewee's permission, post it on the Web. Another school discovers the interview online and uses it in their History Day project. This is fair use.
- 14. On Back-to-School night, an elementary school offers child care for students' younger siblings. They put the kids in the library and show them Disney VHS tapes bought by the PTA. This is permissible.
- 15. A teacher makes a compilation of movie clips from various VHS tapes to use in his classroom as lesson starters. This is covered under fair use.
- **Part IV: Multimedia**
- 16. At a local electronics show, a teacher buys a machine that defeats the copy protection on DVDs, CD-ROMs, and just about everything else. She lets her students use it so they can incorporate clips from rented DVDs into their film genre projects. This is fair use.
- 17. A number of students take digital pictures of local streets and businesses for their Web projects. These are permissible to post online.
- 18. A student wants to play a clip of ethnic music to represent her family's country of origin. Her teacher has a CD that meets her needs. It is fair use for the student to copy and use the music in her project.
- 19. A high school video class produces a DVD yearbook that includes the year's top ten music hits as background music. This is fair use.
- 20. Last year, a school's science fair multimedia CD-ROM was so popular everyone wanted a copy of it. Everything in it was copied under fair use guidelines. It's permissible for the school to sell copies to recover the costs of reproduction.

# Opportunities of Exploitation- Limitless

- Internet
  - Online streaming
  - Online games
  - Software as Service
  - Sale through downloads and e-commerce
  - Video on Demand
- Mobile
  - Mobile streaming
  - Mobile downloads
  - Mobile games
  - Mobile applications
  - Derivative contents such as wallpapaers, ringtones

# Why Digital Medium?

Motivations for downloading content



Source: Global Web Index

# Minimal Cost, Quick and Easy

- Creation of Content
- Copying of Content



- Transfer and distribution of Content

- Advantages for bot  
Pirates (Violators)



Owners and

# Online Piracy: Channels

- Online Streaming- YouTube, MetaCafe, Daily Motion, Yahoo
- Online Sharing- Peer to Peer (P2P) sharing sites, Torrents
- Any other file sharing or file upload system



# Some Facts on Piracy (Source: GoGulf.com)



Online Users Find **Nothing Wrong** in Online Piracy



of Digital piracy sites are **hosted** in North America and Western Europe



of All global Internet **bandwidth** is used for Online Piracy



of Data transferred using **P2P networks** is copyrighted

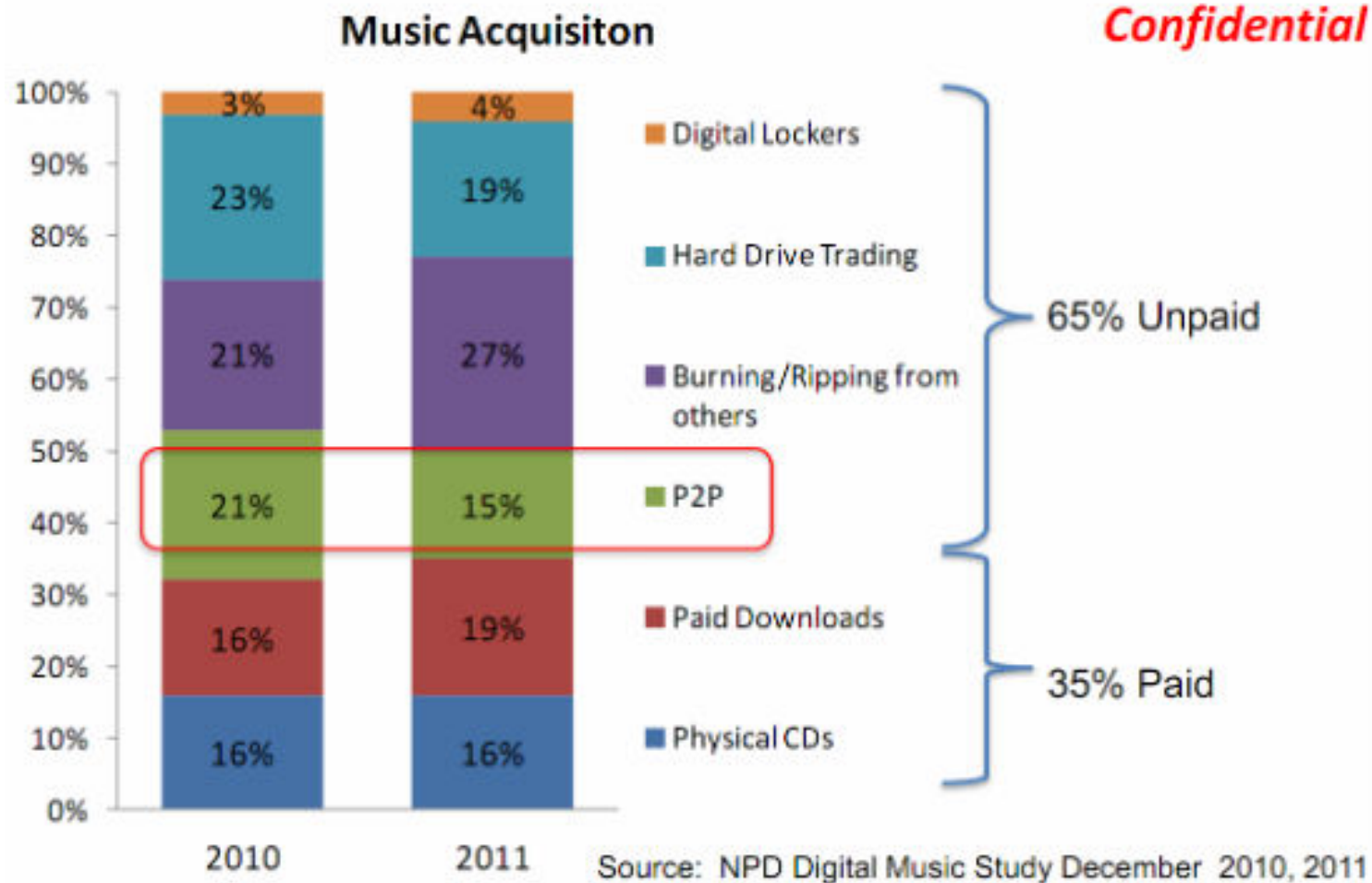


of files available for download on **Cyberlockers** sites (Rapidshare, Megaupload, etc) are copyrighted material



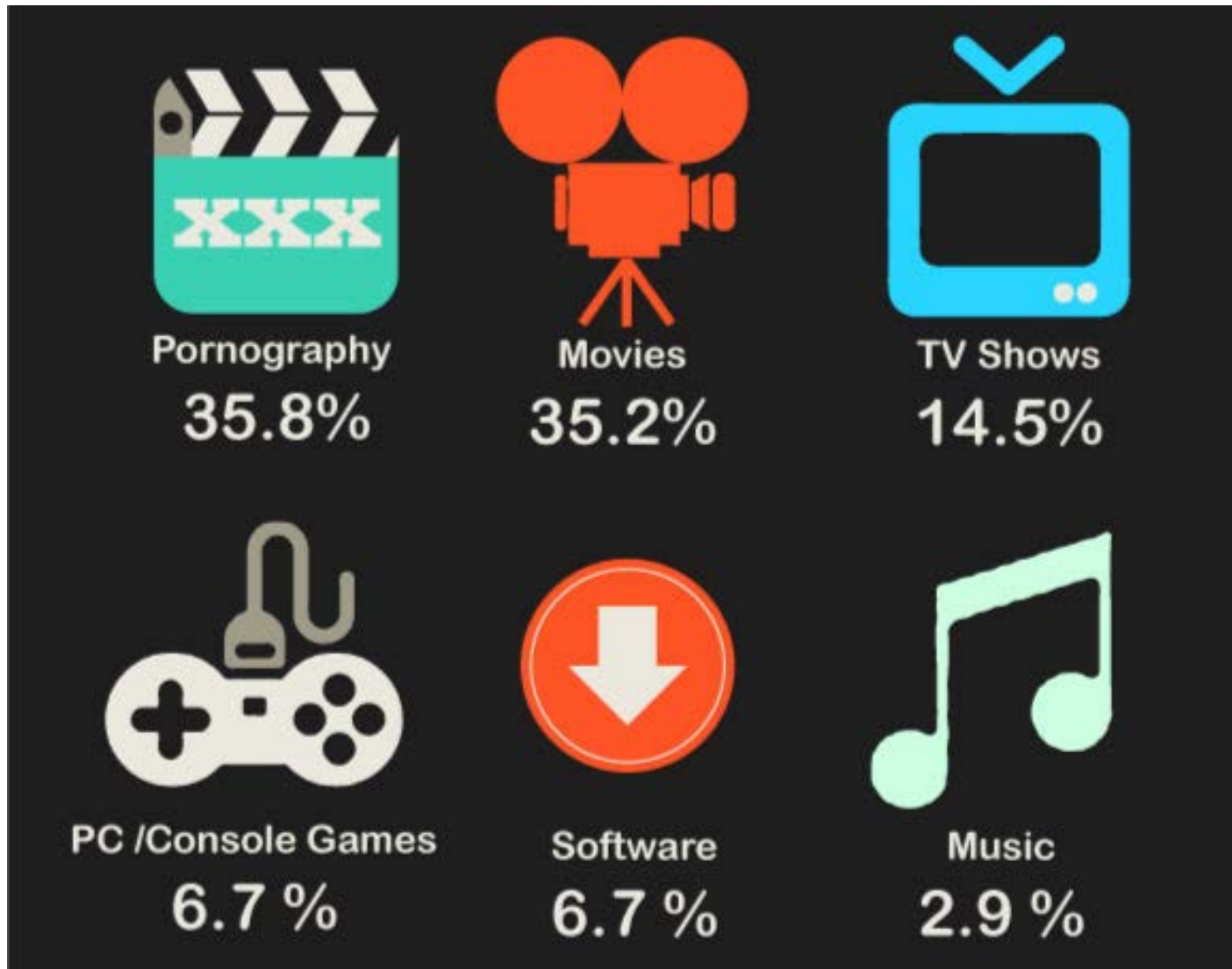
only **1** out of **10,000** pcs of the most popular content on the **OpenBitTorrent** tracker is non-copyrighted

# But the Majority of Music Acquired Still Comes From Illegal Sources





# Most Pirated Items on Web (Source: GoGulf.com)



# And Where does this Happen? (Source:

GoGulf.com)



# Dealing With Online Piracy



# Remedies for Online Piracy



- Technology Solutions
  - Digital fingerprints
  - Surveillance, Attack and takedown
  - Digital Rights Management
- Legal Solutions
  - Legal Actions for Infringement
  - Injunctions – equitable relief
  - Jon Doe Orders- Search and Inspection orders
  - Online Forums- WIPO Domain Name Dispute Resolution

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14<sup>th</sup> Jan, 2012

## INFRINGED REPORT - SUMMARY

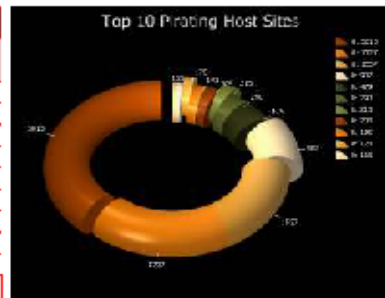
### Ladies Vs Ricky Bahl

Release Date : 9<sup>th</sup> December, 2011  
 Director(S) : Maneesh Sharma  
 Actor(s) : Anushka Sharma, Ranveer Singh, Parineeti Chopra.  
 Distribution Company : Yash Raj Films  
 Start Date : 9<sup>th</sup> Dec, 2011  
 End Date : 14<sup>th</sup> Jan, 2012

Sl. No.	Category	Results	
1	Total No. of Infringements	12607	
2	Number of Links Removed	12478	98.98%
3	Linking Sites and Thread Links	23324	
4	Fake Links	17677	
5	Working Links*	129*	
6	Cyber Locker (LSD) removal	11210	88.91 %
7	Online Streaming removal	446	3.53 %
8	Torrent (P2P) removal	736	5.83 %
9	Image removal	86	0.68 %
10	Top Hosting Site	mediafire.com	
11	Top ISP	National Internet Backbone	
12	Top Country	India	
13	Top Region	Karnataka	
14	Top City	Bangalore	

\* Expecting 34.88% of 129 working links would get removed in the next 24 hours time.

Top Pirating Websites		
Sl. No.	Hosting Site	No. of Links Infringed
1	mediafire.com	3813
2	filesolve.com	1727
3	filesonic.com	1537
4	filejungle.com	902
5	filesonic.in	479
6	filefactory.com	290
7	filepost.com	215
8	dailymotion.com	205
9	rapidshare.com	192
10	uploadstation.com	175



# MODEL INFRINGEMENT REPORT FROM TRACKING AGENCIES



The End