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Billboard Q&A: LimeWire CEO George Searle

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Despite losing in court, the peer-to-peer executive says he still wants to work with labels.

On May 12, the same day that LimeWire CEO George Searle turned 46, a federal judge found the peer-to-peer (P2P) file-sharing service and founder/chairman Mark Gorton liable for copyright infringement (Billboard, May 22).

"It kind of felt like my first birthday, the way I came into this world-getting slapped," Searle quips.

Searle isn't the kind of person one would expect to see leading a legally challenged P2P network. Before joining LimeWire in 2007, he was CEO of Mediaguide, an airplay monitoring service jointly owned by ASCAP and marketing company ConneXus. Searle co-founded ConneXus, where he developed a service that enabled consumers to use their mobile phones to identify and purchase songs played on the radio.

Since taking the helm at LimeWire, Searle has been working to strike licensing deals with the music industry to turn one of the most popular sources of pirated music into a legitimate music service. But this month's ruling has put that effort in jeopardy. In finding LimeWire liable for copyright infringement, U.S. District Court Judge Kimba Wood cited evidence presented by the labels that the company was aware that its users were downloading copyright-protected content and that it even used Google AdWords to reach consumers entering search terms like "replacement Napster," "Napster MP3" and "MP3 free download."

In his first interview since the ruling, Searle speaks exclusively with Billboard about his reaction to the case and LimeWire's ongoing efforts to work with the recording industry.

Given the history of litigation against P2P services, the ruling couldn't have come as a surprise.

It surprised me a little that it happened so quickly. We expected the judge would call a conference before deciding. The court had a lot of evidence to sort through. The difficulty it faced was trying to assess LimeWire's intent after all these years. Paradoxically, the very thing LimeWire has done to respect copyrights and work with the industry were the things the court construed as an intent to infringe.

Like what?

The [LimeWire] Store, settlement documents, plans that were never put in place because the company realized they were wrong, filters that were built but never put in place because the necessary industry cooperation wasn't there. But beyond that, the evidence supporting the court's decision comes down to a quickly scuttled AdWords program and the words of a former COO who settled with the RIAA. Unfortunately, the court accepted the plaintiff's construction of those facts.

Can you explain the AdWords program?

As context, I've been at LimeWire for three years and all of this preceded me. The AdWords campaign was independently created and implemented by a LimeWire intern. LimeWire management did not authorize the bidding and terminated the campaign once they learned of it. The ads mentioned music files, but also many other file types that LimeWire is useful for. And at the time, LimeWire had mixes of music authorized to share. But let me be clear . . . LimeWire did not and does not seek to attract copyright infringers.

Rather than address each point of evidence, let's focus on the most important ones-that more than 98% of files requested on LimeWire infringe on copyrights.

LimeWire considers this an open issue still in litigation. I can't say that I agree with any of the expert reports that were submitted. Whatever the numbers of files authorized for sharing versus those that are not, LimeWire does not know those numbers. It did not in 2000 and it does not now. LimeWire's searching and sharing functions are entirely decentralized. After downloading and installing LimeWire on their computers, we currently have no visibility into what types of content users seek, send and receive with the software.

But if I were to download LimeWire today, I could use it to download unlicensed music. The ruling indicates that LimeWire should do more to prevent that.

That's a good point. In assessing that LimeWire had the intent to induce infringement . . . the court included the failure to include mandatory content filters. The judge was very critical on this point. There are a few problems with this. Generally, as a technologist, I'm concerned this can lead to laws requiring providers of software to put filters in place and actively police their users to avoid infringement. More specifically to [her] opinion, the Grokster [ruling] did not come out until 2005, and it was at that point the technological limitations and rules of conduct were established. In this case, the judge holds LimeWire of 2003 to a standard laid out in 2005. It's hard to successfully manage that.

In any event, LimeWire has tried earnestly, aggressively and continuously to work with the music industry. The company did develop a hash filter to work in cooperation with rights holders [where] the rights holders would provide the hashes for the filter to work. Unfortunately, the rights holders LimeWire went to would not provide the hashes, and as such it was never taken out of beta. LimeWire representatives have met with content holders a hundred times to discuss this issue. Unfortunately, it's never come to fruition.

Then what's your pitch to the music industry?

We're trying to convince them that there's an opportunity. There's the law, and then there's business. P2P is no longer a legal issue. It's not even a technology issue. It's a social issue, and it's definitely a business issue. With respect to the lawsuit and this approach to the problem, there are no winners. This is not going to resolve any of the industry's problems. It will do nothing to reduce overall peer-to-peer use. It does absolutely nothing to help the music consumer. And most importantly, it doesn't do anything to put money into the pockets of artists and songwriters and publishers.

Explain the role you'd like LimeWire to play.

I've been in meetings where I ask a music executive in all earnestness, "How can I best help you?" The knee-jerk response is, "Shut down LimeWire." It provides for an interesting discussion, because what's going to happen if we do that? We're building a revolutionary music service and we'd like to launch it smack dab on top of the P2P network. It's got to be a better alternative.

Our model for this is that it would have unlimited digital rights management-free downloading and streaming. An elegant media player with access to millions of songs on-demand synched to iTunes and other players so that when you plug in your device, your music is just there. Complete and instant access to your entire library across your desktop and devices and the cloud. Subscribable charts and feeds and playlists. Robust discovery features. Recommendations. Curated content. Dynamically created playlists. All the things you can't get from P2P, and we've got a credible plan to make that work.

So the P2P network is the free tier that attracts users to this new service?

If we've learned anything from other P2P companies that have tried something similar, we've learned you have to preserve the core experience. There are few in the world that are able to distribute a desktop application as widely and quickly and successfully as LimeWire. We're completely redesigning the entire P2P experience to promote and sell the music service in contextually relevant ways. So [we] establish multiple triggers to illustrate and highlight the value and features of the service in organic and intuitive ways. It's a great platform to educate and inform.

Isn't that the same freemium model that the recording industry is already pulling away from? How do you plan to compete with a services based on P2P, when similar cloud-based models offer labels more control?

I do think that the world will move towards cloud-based services. But we're not there yet. We view this as an opportunity. You're going to need unlimited downloads and unlimited streaming. Now is the time to blow out downloads. Now is the time for the industry to get ahead of the curve and utilize downloads that people need -- until wireless networks become more ubiquitous -- to get them into the cloud. We think we can facilitate that transition.

The LimeWire Store has around 5 million tracks in its catalog. Any stats on how many of those are actually downloaded and sold?

Well, let me qualify that, because I don't want to confuse our download store with what I just described. Most of our resources go towards building what we call internally this "best damn music service ever." Our current LimeWire Store is not that. It's not everything we want it to be in terms of feature set, in terms of catalog, and in terms of licenses. Because of this, we have not marketed the store to the extent we could. But we've had some early success. In the last year, the LimeWire Store has added tens of thousands of new customers, I think 80% of which were subscription customers. We sell both a la carte and on a subscription basis. I think 40% of subscribers choose the most expensive tier, which is 75 downloads for \$20 a month. The average payout per track to providers has hovered at just above 85 cents per track. There's a mental friction associated with transactional models. We need to make it easier to pay for music, and that's going to require new licenses.

I'm sure this ruling isn't helping those licensing negotiations.

Make no mistake, the judge's decision doesn't make it any easier. But quite honestly, I'm energized. I think the folks we're speaking with are as well. We've been in discussions for a while, and I think this decision catalyzes both us and the industry to focus on the opportunity at hand. The worst possible outcome is that this just slips into legal proceedings and we miss the opportunity because we haven't fully engaged. There could be a lot of reasons why we don't find an opportunity to work with the industry. I'd hate for time and some lawsuit to drive the process to that conclusion.

So what's next?

We'd made no secret about the fact that we want to work with the entire music industry. We've had numerous promising meetings with labels, publishers and artists to develop models that will compensate all. We have very strong ideas about how to integrate relevant, contextual marketing into P2P networks. We've been thinking about this for a long time and would like to give it a shot. The industry has supported very little experimentation on trying to leverage distributed activity to everybody's benefit. Ten years after Napster, we're still wondering if there's a real business here. So we've expressed our desire to license music and settle the P2P dispute through a business arrangement, rather than a legal one. That goal has not changed because of this decision. That is our strategy. That is our plan. That is our hope.

What if the litigation ends in an injunction and damages? What are your contingency plans?

We're keeping our eye on the prize, and that's to engage the industry. I'm optimistic that we'll find a way to work meaningfully with the industry.

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