

# Exhibit 7

April 2, 2008 1:48 PM PDT

## Will former Google exec help save the music industry?

Posted by Greg Sandoval

14 comments

Douglas Merrill is everything one would expect from a former Google exec.

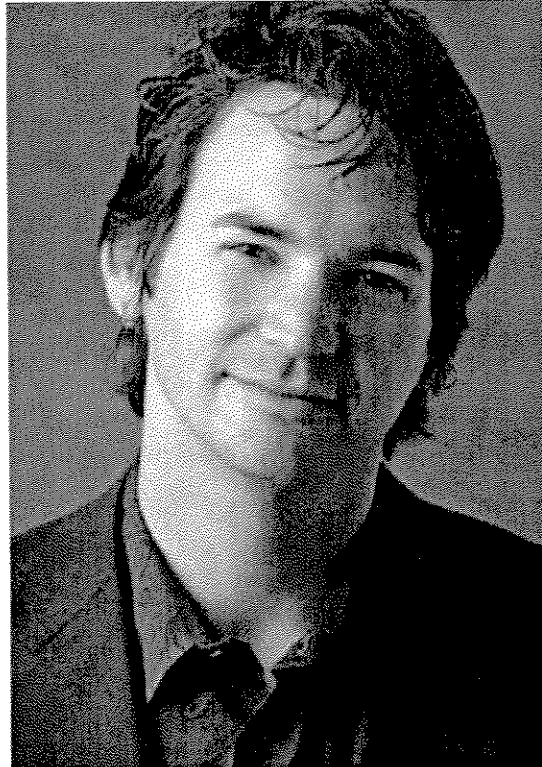
The new chief of EMI's digital unit is a Googler down to his soul, which means he's extremely bright, a techie, and dead set against suing fans for file sharing.

"I'm passionate about data," Merrill said during a phone interview Wednesday with CNET News.com. "For example, there's a set of data that shows that file sharing is actually good for artists. Not bad for artists. So maybe we shouldn't be stopping it all the time. I don't know...I am generally speaking (against suing fans). Obviously, there is piracy that is quite destructive but again I think the data shows that in some cases file sharing might be okay. What we need to do is understand when is it good, when it is not good...Suing fans doesn't feel like a winning strategy."

I just got off the phone with Merrill, Google's former Chief Information Officer who was named president of music label EMI's digital group Wednesday. He impresses me as a good-natured guy who is going to rock the boat at the label...maybe the entire industry.

This is good news for EMI, the smallest of the four top major labels. The hiring of Merrill, who has no background in music sales, represents an acknowledgment of how important digital distribution and technology is to the future of music.


What are his credentials to run the digital arm of a major record company? He doesn't have much



Douglas Merrill, the new president of EMI's digital unit

(Credit: Google)

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outside of sharing a few song files back in his youth (gasp!) and a deep love of music. He said very early in the interview that he doesn't have all the answers yet on how to cure the music industry's woes. ("I don't know where my desk is," he added.)

**"There's a set of data that shows that file sharing is actually good for artists. Not bad for artists. So maybe we shouldn't be stopping it all the time."**

—Douglas Merrill, EMI's president of digital

But he's all about applying what he learned from Google about the Internet, digital distribution, and innovation. Expect to see experiments with varying business and distribution models from now on at EMI.

"You must do experiments and follow the data," Merrill said. "That's often hard because we all have intuitions. The problem is our intuitions aren't always right and Google has shown that over and over again. We've had internal discussions about 'Oh I believe the site should work this way.' We go into the

experiment and we're wrong. And you have to be willing to say 'I thought it was X, I was wrong. It was really Y. That has to be OK. You have to be OK failing because most of the things we try won't work. That's why it's called an experiment. Those things are very deep in my soul."

More specifically, Merrill said he would see whether a Google ad model will work for music. But he's willing to try music subscriptions and even an ISP fee. Certainly, what came across about what strategies Merrill intends to use is that he's not married to any one idea.

"I think there is going to be a lot of different models," Merrill said. "Those are two (subscriptions and ISP fees) you can imagine. I'm not sure that either one of those will be the most dominant model. But they are both interesting. We should try them and see what the data says. Other options will be things like you can imagine supporting music through relevant targeted ads, the Google model. There is a dozen of other things...we should try them all. We should see what the data says and whatever it says, we should follow the data, and follow our users and let them help guide us. We should engage in a broad conversation about art."

He says he's leaving Google to follow one of his passions.

"I'm not running away from Google," Merrill said. "I'm running towards an opportunity to maybe help change the world."

Merrill is due to report to work at the old Capitol Records building in Los Angeles on April 28. That's the place in Hollywood designed to look like stack of albums. It's also the former workplace of Nat King Cole, Frank Sinatra, The Beach Boys and Bonnie Raitt.

Merrill and Guy Hands, CEO of EMI's parent company Terra Firma, were introduced not long ago by a mutual friend. Merrill said Hands began talking to him about moving over "very recently."

What did Eric Schmidt think of the move? The Google CEO told him, "I think it makes perfect sense

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for you," Merrill quoted Schmidt saying. "Eric has been a huge influence on me personally as well as professionally."

To be sure, Merrill is up against an enormous task. He's moving from one of the biggest success stories on the Web to an industry racked by plummeting revenue, layoffs, and customer dissatisfaction. It's also an industry facing labor issues.

Merrill is a fan of Nine Inch Nails so he is aware that the band's leader is the embodiment of artist dissatisfaction with music labels. Trent Reznor, who walked away from Universal Music Group last year, has helped spearhead experiments with self-distribution, mainly on the Web. Merrill doesn't appear worried about this.

"I think it's important to figure out where can record labels add value," Merrill said. "I don't know the answer. I think Nine Inch Nails' experiments have been really interesting and enlightening. We need to step back and say what is the process of artist creation and helping fans find what artists create.

"Given that as a system we need to understand how record labels fit in there," Merrill continued, "I think the Nine Inch Nails' release of *Ghosts* experiment was fascinating. What a great problem to have: people are trying different things. If everyone tries the same thing you'll never learn anything new. Instead we're in a situation where people are trying things. How cool is that? Some are going to work. Some aren't going to work. But we need to try them."

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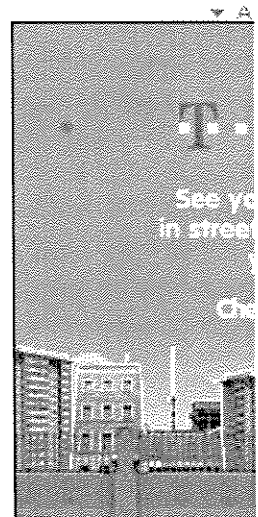
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### [File-sharing vs. advertising](#)

by [mrc77](#) April 2, 2008 2:41 PM PDT

Most musicians/artists realize nowadays that the only way they are going to make money is by touring so the decrease in record sales should not hurt them that much. Maybe you could use advertising to get the bands and record studios more money. You could have one file-sharing program that is better than any of them. It would be better than bittorrent, soulseek, limewire, etc. It could require you to watch an ad before you get your song, or it could have ads going the whole time you are downloading 50 songs. If your songs are getting people to use the program, you should get to share in some of the ad revenue.

Of course, you would probably get to the point where people would figure out how to hack the program and remove all ads.

Reply to this comment

### **Ad-funded softwares**

by Iron\_Newt April 2, 2008 2:53 PM PDT

What you're proposing is not all that preposterous of an idea. A music program known as "Ruckus" is doing pretty much that for many college students. Unfortunately, I think it requires some funding from the client's University, still has ads, and does not allow for burning on a CD, and limited use on mobile devices. If this can be improved upon, I agree that this could be a goldmine.

Reply to this comment

### **"Fans" don't STEAL, "sharing" is worse.**

by technewsjunkie April 2, 2008 5:25 PM PDT

Tell it like it IS.

Don't use euphemisms like "Fan's" who are thieves, and "sharing" like it is angelic.

Why do people think music is any different than software, or cars, or clothes. It's not.

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### **My two cents**

by edgedesign April 2, 2008 5:27 PM PDT

First, let me say that this will certainly be a challenge for Merrill, EMI and

other labels. The transition from the established vehicles of distribution/promotion to a digital-based one certainly has been rapid.

I'm both a music freak and a technology/creative professional. I purchase and acquire music regularly. I don't scour torrents or seek out illegal trading sites, but I do swap a few tracks with friends from time to time. I liken it to my early days of distributing/receiving mix tapes to/from friends. As a result, I am/they are exposed to more and more artists. Often, this results in additional purchases via iTunes or Amazon. I used to frequent Virgin, Best Buy and various brick and mortar music stores, now I only buy a hard copy if it isn't available digitally. I love being able to manage my music collection via hundreds of custom playlists and obviously I love being able to move it from place to place/device to device effortlessly. In my case a Mac mini, iPhone, iPod nano and an Apple TV.

I'm exposed to more new music today than ever. I purchase more new music today than ever. I attend more concerts and festivals today than ever. I must certainly dump more of my hard earned \$\$ into the music industry today than ever before.

I think we'll see more and more artists take the route of Radiohead and NIN. The perception is 'who needs labels anymore?' and the labels need to adapt or they'll die.

I don't have all the answers either... maybe none of them, but here are some ideas:

- Pre-release FREE tracks from upcoming albums to entice further purchases.
- Release FREE tracks from various albums to entice further purchases. (download.com, iTunes)
- Get fans involved via fan audio/video remix contests (R.E.M., Radiohead, NIN)
- Establish paid fan membership sites that offer pre-sale concert tickets, unique releases, etc. (U2, Dave Matthews Band)
- Offer unique content for purchase via artist's websites (Simple Minds, The The)
- Let fans record and trade live performances (without monetary gain).
- Go after those trading large amounts of content via torrents, trading

sites and other illegal cash-motivated sources and NOT small time music lovers who trade and purchase music they love.

- Forget about DRM

Reply to this comment

## Why?

by wyly295 April 2, 2008 5:34 PM PDT

Why should ad-funded music work? Who wants to absorb an ad in the process of finding pleasure, relaxation, whatever satisfaction one seeks from hearing music? Certainly not me.

Why do people steal music? What suddenly happened to make people think the artists, producers, publishers, and yes, the labels who foot the production and marketing bills, don't deserve to be paid for their creativity, effort and investment?

Why do people think they need to "own" music? Is there some shortage? Does it appreciate in value over time? Does it really give one more control? My answer is no. I don't "own" any music at any more, but I listen to more than ever...far more. I could not care less about "owning" a little file of electrons hidden somewhere in a box under my desk. I subscribe to Napster. I pay \$15 per month for access to over 5mm tracks on 3 computers and 3 players. One of the computers is an old laptop plugged into my home AV system as a music server. It's amazing. Everybody loves it when they hear it and see it. My players work just like iPods. I can even download songs over the air with my ATT cell phone if I want. Two of my kids each have their own music libraries on their own PCs and download to their own players or phones. I don't work for Napster, but I do own stock in the company because I think it is such a great service. So far I've received far more musical satisfaction than investment satisfaction from Napster. Regardless, the service is solid.

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## No way

by JYoungest1 April 3, 2008 9:23 AM PDT

Oh please, downloading music is not any where near stealing. Add to that the fact that Record Companies are the ones stealing money. All a record company does is market the music and take the proceeds. This a ridiculous model when you consider Myspace, and a slew of others free. Word of mouth is entirely more powerful than any record company or marketing team. Concerts are the only thing an artist should have to worry about. Their music (which they make and distribute for free) is then the advertisement for their concerts. If they are a good artist then people WILL show up. If not then they wont last.

What does this sound like people?!

Oh yea just like a artist who paints or does any kind of traditional art. They find a place to exhibit (gallery) and then their fame is based off their talent. Not some huge label propelling them to fame for nothing but their own gain.

Think of how many musicians there are now, its becoming over saturated. What happened when this happened to traditional art. Well the individuals started to get paid less and less (no more horribly over paid muscians with a lack of talent and no more OD's), and then only the people who put forth great art were left out.

Supply and Demand.

Maybe these record companies should switch their line of work over to concert hosting.

Reply to this comment

### **Goof Luck**

by Wupta April 3, 2008 12:31 PM PDT

As a former owner of a distribution company and record label I had the opportunity to work with hundreds of Labels and Artists. I can tell you that Artists are on crack if they think they can manage their business and still do art. First of it takes a different set of skills to run a business. Some only a few that is may actually have the back-bone to do it. Remember if you want to live the Rock and Roll lifestyle there is a cost. Second Nine Inch nails got name and fame because a label put them on the map. The world is full of bands and musicians, dime a dozen actually. So now that they have a name they can do things that 99.9% of bands can't do which is get instant press. The first step to selling. Just to re-iterate the name was gotten by the investment and management from the "labels".

As far as the digital distribution is concerned the problem started with the tech industry. They introduced the tools to rob the music industry into everyones hands. The solution is going to be from the tech industry. They can and should be held responsible for facilitating theft. The tech industry did this to make a profit knowing fully well what the consequences were. So lets stop blaming the Labels and the industry. I do have the solution for all this but someone has to pay me big \$\$\$ to even hear it.

Reply to this comment

### **Which one?**

by PhaseDMA April 3, 2008 6:02 PM PDT

Which record company did you own? "Joe Nobodies Closet"?



Reply to this comment

by never mind the bollocks May 23, 2008 2:27 PM PDT

Thanks for the only enlightened comment on this page. (except tech news junkie) No one seems to get that being a great musician, much less a superstar is four full time jobs and that marketing and promotion is fifty full time jobs, not to mention the huge monetary investment necessary to market ANY product on a national or worldwide scale. Thanks for mentioning that all the acts that get press as "new business model" artists are already millionaires, so they take a little chance with their new product. Perhaps, if musicians and writers were able to be musicians and writers instead of spending all day on My Space adding friends in hopes of a couple of downloads, the cream could actually rise to the top and we'd be listening to and watching our new favorite artist/music of the future on Tuesdays instead of the new millinium version of Star Search.

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